

Rep. Marcus C. Evans, Jr.

Filed: 3/16/2021

	10200HB0562ham001 LRB102 02734 SPS 23165 a
1	AMENDMENT TO HOUSE BILL 562
2	AMENDMENT NO Amend House Bill 562 by replacing
3	everything after the enacting clause with the following:
4	"Section 5. The Regulatory Sunset Act is amended by
5	changing Section 4.32 and by adding Section 4.41 as follows:
6	(5 ILCS 80/4.32)
7	Sec. 4.32. Acts repealed on January 1, 2022. The following
8	Acts are repealed on January 1, 2022:
9	The Boxing and Full-contact Martial Arts Act.
10	The Cemetery Oversight Act.
11	The Collateral Recovery Act.
12	The Community Association Manager Licensing and
13	Disciplinary Act.
14	The Crematory Regulation Act.
15	The Detection of Deception Examiners Act.
16	The Home Inspector License Act.

- 1 The Illinois Health Information Exchange and Technology
- 2 Act.
- 3 The Medical Practice Act of 1987.
- 4 The Registered Interior Designers Act.
- 5 The Massage Licensing Act.
- 6 The Petroleum Equipment Contractors Licensing Act.
- 7 The Radiation Protection Act of 1990.
- 8 The Real Estate Appraiser Licensing Act of 2002.
- 9 The Water Well and Pump Installation Contractor's License
- 10 Act.
- 11 (Source: P.A. 100-920, eff. 8-17-18; 101-316, eff. 8-9-19;
- 12 101-614, eff. 12-20-19; 101-639, eff. 6-12-20.)
- 13 (5 ILCS 80/4.41 new)
- 14 Sec. 4.41. Act repealed on January 1, 2032. The following
- 15 Act is repealed on January 1, 2032:
- The Home Inspector License Act.
- 17 Section 10. The Home Inspector License Act is amended by
- 18 changing Sections 1-10, 5-5, 5-10, 5-12, 5-16, 5-17, 5-20,
- 19 5-25, 5-30, 10-10, 15-10, 15-15, 15-20, 15-55, 15-60, 20-5,
- 20 25-15, and 25-27 and by adding Sections 1-12, 5-50, 15-10.1,
- 21 and 15-36 as follows:
- 22 (225 ILCS 441/1-10)
- 23 (Section scheduled to be repealed on January 1, 2022)

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1 Sec. 1-10. Definitions. As used in this Act, unless the context otherwise requires: 2

"Address of record" means the designated street address, which may not be a post office box, recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address and those changes must be made either through the Department's website or by contacting the Department.

11 "Applicant" means a person who applies to the Department for a license under this Act. 12

13 "Client" means a person who engages or seeks to engage the 14 services of a home inspector for an inspection assignment.

"Department" means the Department of Financial and Professional Regulation.

"Email address of record" means the designated email address recorded by the Department in the applicant's application file or the licensee's license file, as maintained by the Department.

"Home inspection" means the examination and evaluation of the exterior and interior components of residential real property, which includes the inspection of any 2 or more of the components of residential real property following connection with or to facilitate the sale, lease, or other conveyance of, or the proposed sale, lease or other conveyance

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of, residential real property: 1 (1) heating, ventilation, and air conditioning system; 2 3 (2) plumbing system; 4 (3) electrical system; 5 (4) structural composition; (5) foundation; 6 (6) roof; 7 8 (7) masonry structure; or 9 (8) any other residential real property component as 10 established by rule. "Home inspector" means a person or entity who, for another 11 and for compensation either direct or indirect, performs home 12 13 inspections. "Home inspection report" or "inspection report" means a 14 15 written evaluation prepared and issued by a home inspector 16 upon completion of a home inspection, which meets the standards of practice as established by the Department. 17 "Inspection assignment" means an engagement for which a 18 19 home inspector is employed or retained to conduct a home 20 inspection and prepare a home inspection report. "License" means the privilege conferred by the Department 2.1 22 to a person who has fulfilled all requirements prerequisite to 23 any type of licensure under this Act. 24 "Licensee" means a home inspector, home inspector entity,

"Person" means individuals, entities, corporations,

or home inspector education provider.

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1	limited	liability	companies,	registered	limited	liability

- 2 partnerships, and partnerships, foreign or domestic, except
- 3 that when the context otherwise requires, the term may refer
- 4 to a single individual or other described entity.
- 5 "Residential real property" means real property that is
- 6 used or intended to be used as a residence by one or more
- 7 individuals.
- 8 "Secretary" means the Secretary of Financial and
- 9 Professional Regulation or the Secretary's designee.
- 10 "Standards of practice" means recognized standards and
- 11 codes to be used in a home inspection, as determined by the
- 12 Department and established by rule.
- 13 (Source: P.A. 97-226, eff. 7-28-11.)
- 14 (225 ILCS 441/1-12 new)
- Sec. 1-12. Address of record; email address of record. All
- 16 <u>applicants and licensees shall:</u>
- 17 (1) provide a valid address and email address to the
- Department, which shall serve as the address of record and
- email address of record, respectively, at the time of
- 20 application for licensure or renewal of a license; and
- 21 (2) inform the Department of any change of address of
- record or email address of record within 14 days after
- 23 <u>such change through the Department's website or by</u>
- 24 contacting the Department.

- 1 (225 ILCS 441/5-5)
- 2 (Section scheduled to be repealed on January 1, 2022)
- 3 Sec. 5-5. Necessity of license; use of title; exemptions.
- 4 (a) It is unlawful for any person, including any entity,
- 5 to act or assume to act as a home inspector, to engage in the
- 6 business of home inspection, to develop a home inspection
- 7 report, to practice as a home inspector, or to advertise or
- 8 hold oneself himself, herself, or itself out to be a home
- 9 inspector without a home inspector license issued under this
- 10 Act. A person who violates this subsection is guilty of a Class
- 11 A misdemeanor for the first offense and a Class 4 felony for
- the second and any subsequent offenses.
- 13 (b) It is unlawful for any person, other than a person who
- 14 holds a valid home inspector license issued pursuant to this
- 15 Act, to use the title "home inspector" or any other title,
- designation, or abbreviation likely to create the impression
- 17 that the person is licensed as a home inspector pursuant to
- 18 this Act. A person who violates this subsection is guilty of a
- 19 Class A misdemeanor.
- 20 (c) The licensing requirements of this Article do not
- 21 apply to:
- (1) any person who is employed as a code enforcement
- official by the State of Illinois or any unit of local
- 24 government, while acting within the scope of that
- 25 government employment;
- 26 (2) any person licensed <u>in this State by any other law</u>

1	who is engaging in the profession or occupation for which
2	the person is licensed by the State of Illinois while
3	acting within the scope of his or her license; or

- (3) any person engaged by the owner or lessor of residential real property for the purpose of preparing a bid or estimate as to the work necessary or the costs associated with performing home construction, home remodeling, or home repair work on the residential real property, provided such person does not hold himself or herself out, or advertise or hold oneself out as himself or herself, as being engaged in business as a home inspector.
- (d) The licensing of home inspector entities required under this Act does not apply to an entity whose ownership structure is one licensed home inspector operating a sole proprietorship, a single member limited liability company, or a single shareholder corporation, and that home inspector is the only licensed home inspector performing inspections on the entity's behalf. The licensed home inspector who is the sole proprietor, sole shareholder, or single member of the company or entity shall comply with all other provisions of this Act.
- 23 (225 ILCS 441/5-10)
- 24 (Section scheduled to be repealed on January 1, 2022)
- Sec. 5-10. Application for home inspector license.

(Source: P.A. 97-226, eff. 7-28-11.)

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- (a) Every natural person who desires to obtain a home inspector license shall:
 - (1) apply to the Department in a manner on forms prescribed by the Department and accompanied by the required fee; all applications shall contain the information that, in the judgment of the Department, enables the Department to pass on the qualifications of the applicant for a license to practice as a home inspector as set by rule;
 - (2) be at least 18 years of age;
 - a high school or secondary school or an equivalent course of study approved by the state in which the school is located, or possess a high school equivalency certificate, which shall be verified under oath by the applicant provide evidence of having attained a high school diploma or completed an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education;
 - (4) personally take and pass <u>a written examination and</u> a field $\frac{\partial}{\partial x}$ examination authorized by the Department; and
 - (5) prior to taking the examination, provide evidence to the Department that the applicant he or she has successfully completed the prerequisite classroom hours of instruction in home inspection, as established by rule.
 - (b) The Department shall not require applicants to report

1	the following information and shall not consider the following
2	criminal history records in connection with an application for
3	licensure or registration:
4	(1) juvenile adjudications of delinquent minors as
5	defined in Section 5-105 of the Juvenile Court Act of 1987
6	subject to the restrictions set forth in Section 5-130 of
7	that Act;
8	(2) law enforcement records, court records, and
9	conviction records of an individual who was 17 years old
10	at the time of the offense and before January 1, 2014,
11	unless the nature of the offense required the individual
12	to be tried as an adult;
13	(3) records of arrest not followed by a charge or
14	<pre>conviction;</pre>
15	(4) records of arrest where the charges were dismissed
16	unless related to the practice of the profession; however,
17	applicants shall not be asked to report any arrests, and
18	an arrest not followed by a conviction shall not be the
19	basis of denial and may be used only to assess ar
20	<pre>applicant's rehabilitation;</pre>
21	(5) convictions overturned by a higher court; or
22	(6) convictions or arrests that have been sealed or
23	expunged.
24	(c) An applicant or licensee shall report to the
25	Department, in a manner prescribed by the Department, upon
26	application and within 30 days after the occurrence, if during

- 1 the term of licensure, (i) any conviction of or plea of quilty or nolo contendere to forgery, embezzlement, obtaining money 2 under false pretenses, larceny, extortion, conspiracy to 3 4 defraud, or any similar offense or offenses or any conviction 5 of a felony involving moral turpitude, (ii) the entry of an administrative sanction by a government agency in this State 6 or any other jurisdiction that has as an essential element 7 dishonesty or fraud or involves larceny, embezzlement, or 8 9 obtaining money, property, or credit by false pretenses, or 10 (iii) a crime that subjects the licensee to compliance with
- (d) Applicants have 3 years after the date of 12 13 application to complete the application process. process has not been completed within 3 years, the application 14 15 shall be denied, the fee forfeited, and the applicant must 16 reapply and meet the requirements in effect at the time of 17 reapplication.

the requirements of the Sex Offender Registration Act.

- (Source: P.A. 100-892, eff. 8-14-18.) 18
- 19 (225 ILCS 441/5-12)

- 20 (Section scheduled to be repealed on January 1, 2022)
- 21 Sec. 5-12. Application for home inspector license; entity.
- 22 Every entity that is not a natural person that desires to
- obtain a home inspector license shall apply to the Department 23
- 24 in a manner prescribed on forms provided by the Department and
- 25 accompanied by the required fee.

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1 Applicants have 3 years after the date of the application to complete the application process. If the process has not 2 been completed within 3 years, the application shall be 3 4 denied, the fee forfeited, and the applicant must reapply and 5 meet the requirements in effect at the time of reapplication.

A corporation, limited liability company, partnership, or entity shall, as a condition of licensure, designate a managing licensed home inspector. The managing home inspector of any home inspector entity shall be responsible for the actions of all licensed and unlicensed employees, agents, and representatives of that home inspector entity while it is providing a home inspection or home inspection service. All other requirements for home inspector entities shall be established by rule.

- 15 (Source: P.A. 97-226, eff. 7-28-11.)
- (225 ILCS 441/5-16) 16
- 17 (Section scheduled to be repealed on January 1, 2022)
- Sec. 5-16. Renewal of license. 18
- 19 (a) The expiration date and renewal period for a home inspector license issued under this Act shall be set by rule. 20 21 Except as otherwise provided in subsections (b) and (c) of this Section, the holder of a license may renew the license 22 within 90 days preceding the expiration date by: 23
- 24 (1) completing and submitting to the Department a 25 renewal application in a manner prescribed form as

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provided by the Department;

- (2) paying the required fees; and
- (3) providing evidence of successful completion of the continuing education requirements through courses approved by the Department given by education providers licensed by the Department, as established by rule.
- (b) A home inspector whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of subparagraphs (1), (2), and (3) of subsection (a) of this Section and paying any late penalties established by rule.
- (c) Notwithstanding subsection (b), a home inspector whose license under this Act has expired may renew the license without paying any lapsed renewal fees or late penalties if (i) the license expired while the home inspector was on active duty with the United States Armed Services, (ii) application for renewal is made within 2 years following the termination of the military service or related education, training, or employment, and (iii) the applicant furnishes to the Department an affidavit that the applicant he or she was so engaged.
- (d) The Department shall provide reasonable care and due diligence to ensure that each licensee under this Act is provided a renewal application at least 90 days prior to the expiration date, but it is the responsibility of each licensee to renew the his or her license prior to its expiration date.

- 1 (Source: P.A. 97-226, eff. 7-28-11.)
- 2 (225 ILCS 441/5-17)
- 3 (Section scheduled to be repealed on January 1, 2022)
- 4 Sec. 5-17. Renewal of home inspector license; entity.
- 5 (a) The expiration date and renewal period for a home
- 6 inspector license for an entity that is not a natural person
- 7 shall be set by rule. The holder of a license may renew the
- 8 license within 90 days preceding the expiration date by
- 9 completing and submitting to the Department a renewal
- 10 application in a manner prescribed form as provided by the
- 11 Department and paying the required fees.
- 12 (b) An entity that is not a natural person whose license
- under this Act has expired may renew the license for a period
- of 2 years following the expiration date by complying with the
- 15 requirements of subsection (a) of this Section and paying any
- late penalties established by rule.
- 17 (Source: P.A. 97-226, eff. 7-28-11.)
- 18 (225 ILCS 441/5-20)
- 19 (Section scheduled to be repealed on January 1, 2022)
- Sec. 5-20. Endorsement. The Department may, in its
- 21 discretion, license as a home inspector, by endorsement, on
- 22 payment of the required fee, an applicant who is a home
- 23 inspector licensed under the laws of another state or
- 24 territory, if (i) the requirements for licensure in the state

or territory in which the applicant was licensed were, at the date of his or her licensure, substantially equivalent to the requirements in force in this State on that date or (ii) there were no requirements in force in this State on the date of his or her licensure and the applicant possessed individual qualifications on that date that are substantially similar to the requirements under this Act. The Department may adopt any rules necessary to implement this Section.

Applicants have 3 years after the date of application to complete the application process. If the process has not been completed within 3 years, the application shall be denied, the fee forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

14 (Source: P.A. 97-226, eff. 7-28-11.)

15 (225 ILCS 441/5-25)

(Section scheduled to be repealed on January 1, 2022)

Sec. 5-25. Pre-license education requirements. The prerequisite <u>curriculum and</u> classroom hours necessary for a person to be approved to sit for the examination for a home inspector shall be established by rule. <u>Approved education</u>, as <u>prescribed by this Act and its associated administrative rules</u> for licensure as a home inspector, shall be valid for 2 years after the date of satisfactory completion of the education.

(Source: P.A. 92-239, eff. 8-3-01.)

- 1 (225 ILCS 441/5-30)
- (Section scheduled to be repealed on January 1, 2022) 2
- Sec. 5-30. Continuing education renewal requirements. The 3
- continuing education requirements for a person to renew a 4
- 5 license as a home inspector shall be established by rule. The
- Department shall establish a continuing education completion 6
- 7 deadline for home inspector licensees and require evidence of
- 8 compliance with continuing education requirements in a manner
- 9 established by rule before the renewal of a license.
- 10 (Source: P.A. 100-831, eff. 1-1-19.)
- (225 ILCS 441/5-50 new) 11
- 12 Sec. 5-50. Insurance.
- 13 (a) All applicants for a home inspector license and all
- 14 licensees shall maintain general liability insurance in an
- 15 amount of not less than \$100,000.
- (b) Failure of an applicant or a licensee to carry and 16
- maintain the insurance required by this Section, to timely 17
- 18 submit proof of coverage upon the Department's request, or to
- 19 timely report any claims made against such policies of
- insurance shall be grounds for the denial of an application to 20
- renew a license, or the suspension or revocation of the 21
- 22 license.
- 23 (c) The policies of insurance submitted by an applicant
- 24 for a new license or an applicant for renewal of a license must
- include the name of the applicant as it appears or will appear 25

- 1 on the license.
- 2 (d) A home inspector shall maintain the insurance required
- 3 by this Section for at least one year after the latest home
- 4 inspection report the home inspector delivered.
- 5 (e) The Department may adopt rules to implement this
- 6 Section.
- 7 (225 ILCS 441/10-10)
- 8 (Section scheduled to be repealed on January 1, 2022)
- 9 Sec. 10-10. Retention of records. A person licensed under
- this Act shall retain the original or a true and exact copy of
- all written contracts that engage the licensee's engaging his
- 12 or her services as a home inspector and all home inspection
- 13 reports, including any supporting data used to develop the
- 14 home inspection report, for a period of 5 years or 2 years
- 15 after the final disposition of any judicial proceeding, which
- includes any appeal, in which testimony was given, whichever
- is longer.
- 18 (Source: P.A. 97-226, eff. 7-28-11.)
- 19 (225 ILCS 441/15-10)
- 20 (Section scheduled to be repealed on January 1, 2022)
- 21 Sec. 15-10. Grounds for disciplinary action.
- 22 (a) The Department may refuse to issue or renew, or may
- 23 revoke, suspend, place on probation, reprimand, or take other
- 24 disciplinary or non-disciplinary action as the Department may

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- deem appropriate, including imposing fines not to exceed \$25,000 for each violation, with regard to any license for any one or combination of the following:
 - (1) Fraud or misrepresentation in applying for, or procuring a license under this Act or in connection with applying for renewal of a license under this Act.
 - (2) Failing to meet the minimum qualifications for licensure as a home inspector established by this Act.
 - (3) Paying money, other than for the fees provided for by this Act, or anything of value to an employee of the Department to procure licensure under this Act.
 - (4) Conviction of, or by plea of guilty or nolo contendere, or finding as enumerated in subsection (c) of Section 5-10, of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States: (i) that is a felony,; (ii) that is a misdemeanor, or administrative sanction, or (ii) an essential element of which is dishonesty, or that is directly related to the practice of the profession; or (iii) that is a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.
 - (5) Committing an act or omission involving dishonesty, fraud, or misrepresentation with the intent to

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1 substantially benefit the licensee or another person or with the intent to substantially injure another person. 2

- Violating a provision or standard for the development or communication of home inspections provided in Section 10-5 of this Act or as defined in the rules.
- (7) Failing or refusing to exercise reasonable diligence in the development, reporting, or communication of a home inspection report, as defined by this Act or the rules.
 - (8) Violating a provision of this Act or the rules.
- (9) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or substantially equivalent to one of the grounds for which a licensee may be disciplined under this Act.
- (10)Engaging in dishonorable, unethical, unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (11) Accepting an inspection assignment when employment itself is contingent upon the home inspector reporting a predetermined analysis or opinion, or when the fee to be paid is contingent upon the analysis, opinion, or conclusion reached or upon the consequences resulting

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from the home inspection assignment.

- (12)Developing home inspection opinions conclusions based on the race, color, religion, national origin, ancestry, age, marital status, family status, physical or mental disability, military status, or unfavorable discharge from military status discharge, sexual orientation, order of protection status, or pregnancy, as defined under the Illinois Human Rights Act, of the prospective or present owners or occupants of the area or property under home inspection.
- (13) Being adjudicated liable in a civil proceeding on grounds of fraud, misrepresentation, or deceit. In a disciplinary proceeding based upon a finding of civil liability, the home inspector shall be afforded an opportunity to present mitigating and extenuating circumstances, but may not collaterally attack the civil adjudication.
- (14) Being adjudicated liable in a civil proceeding for violation of a State or federal fair housing law.
- (15) Engaging in misleading or untruthful advertising or using a trade name or insignia of membership in a home inspection organization of which the licensee is not a member.
- (16) Failing, within 30 days, to provide information in response to a written request made by the Department.
 - (17) Failing to include within the home inspection

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report the home inspector's license number and the date of expiration of the license. The names of (i) all persons who conducted the home inspection; and (ii) all persons who prepared the subsequent written evaluation or any part thereof must be disclosed in the report. All home inspectors providing significant contribution to the development and reporting of a home inspection must be disclosed in the home inspection report. It is a violation of this Act for a home inspector to sign a home inspection report knowing that the names of all such persons have $\frac{a}{a}$ person providing a significant contribution to the report has not been disclosed in the home inspection report.

- (18) Advising a client as to whether the client should should not engage in a transaction regarding the residential real property that is the subject of the home inspection.
- (19) Performing a home inspection in a manner that damages or alters the residential real property that is the subject of the home inspection without the consent of the owner.
- (20) Performing a home inspection when the home inspector is providing or may also provide other services in connection with the residential real property or transaction, or has an interest in the residential real property, without providing prior written notice of the potential or actual conflict and obtaining the prior

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1	consent of the client as provided by rule.
2	(21) Aiding or assisting another person in violating
3	any provision of this Act or rules adopted under this Act.
4	(22) Inability to practice with reasonable judgment,
5	skill, or safety as a result of habitual or excessive use
6	or addiction to alcohol, narcotics, stimulants, or any
7	other chemical agent or drug.
8	(23) A finding by the Department that the licensee,
9	after having the his or her license placed on probationary
10	status, has violated the terms of probation.
11	(24) Willfully making or filing false records or
12	reports related to the in his or her practice of home
13	inspection, including, but not limited to, false records
14	filed with State agencies or departments.
15	(25) Charging for professional services not rendered,
16	including filing false statements for the collection of
17	fees for which services are not rendered.
18	(26) Practicing under a false or, except as provided
19	by law, an assumed name.
20	(27) Cheating on or attempting to subvert the
21	licensing examination administered under this Act.
22	(28) Engaging in any of the following prohibited
23	fraudulent, false, deceptive, or misleading advertising
24	<pre>practices:</pre>

(i) advertising as a home inspector or operating a

home inspection business entity unless there is a duly

1	licensed home inspector responsible for all inspection
2	activities and all inspections;
3	(ii) advertising that contains a misrepresentation
4	of facts or false statements regarding the licensee's
5	professional achievements, degrees, training, skills,
6	or qualifications in the home inspection profession or
7	any other profession requiring licensure;
8	(iii) advertising that makes only a partial
9	disclosure of relevant facts related to pricing or
10	home inspection services; and
11	(iv) advertising that claims this State or any of
12	its political subdivisions endorse the home inspection
13	report or its contents.
14	(29) Disclosing, except as otherwise required by law,
15	inspection results or client information obtained without
16	the client's written consent. A home inspector shall not
17	deliver a home inspection report to any person other than
18	the client of the home inspector without the client's
19	written consent.
20	(30) Providing fees, gifts, waivers of liability, or
21	other forms of compensation or gratuities to persons
22	licensed under any real estate professional licensing act
23	in this State as consideration or inducement for the
24	referral of business.
25	(b) The Department may suspend, revoke, or refuse to issue
26	or renew an education provider's license, may reprimand, place

- 1 on probation, or otherwise discipline an education provider licensee, and may suspend or revoke the course approval of any course offered by an education provider, for any of the 3
- 4 following:

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- (1) Procuring or attempting to procure licensure by knowingly making a false statement, submitting false information, making any form οf fraud misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.
- (2) Failing to comply with the covenants certified to on the application for licensure as an education provider.
- Committing act or omission involving (3) an dishonesty, fraud, or misrepresentation or allowing any such act or omission by any employee or contractor under the control of the education provider.
 - (4) Engaging in misleading or untruthful advertising.
- Failing to retain competent instructors in accordance with rules adopted under this Act.
- (6) Failing to meet the topic or time requirements for approval as the provider of a pre-license course curriculum course or a continuing education course.
- (7) Failing to administer an approved course using the course materials, syllabus, and examinations submitted as the basis of the course approval.
 - (8) Failing to provide an appropriate classroom

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- environment for presentation of courses, with consideration for student comfort, acoustics, lighting, seating, workspace, and visual aid material.
 - (9) Failing to maintain student records in compliance with the rules adopted under this Act.
 - (10) Failing to provide a certificate, transcript, or other student record to the Department or to a student as may be required by rule.
 - (11) Failing to fully cooperate with a Department investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.
 - (c) (Blank). In appropriate cases, the Department may resolve a complaint against a licensee through the issuance of a Consent to Administrative Supervision order. A licensee subject to a Consent to Administrative Supervision order shall be considered by the Department as an active licensee in good standing. This order shall not be reported as or considered by the Department to be a discipline of the licensee. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by the Department except as mandated by law. The complainant shall be notified that his or her complaint has been resolved by a Consent to Administrative Supervision

order.

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- (d) The Department may refuse to issue or may suspend without hearing, as provided for in the Code of Civil Procedure, the license of any person who fails to file a tax return, to pay the tax, penalty, or interest shown in a filed tax return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.
- 12 (e) (Blank).
 - (f) In cases where the Department of Healthcare and Family Services has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (a) of Section 2105-15 of the Civil Administrative Code of Illinois.
 - (g) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities

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Code, operates as an automatic suspension. The suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of a court order so finding and discharging the patient.

(h) (Blank). In enforcing this Act, the Department, upon a showing of a possible violation, may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physician shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. The examination shall be performed by a physician licensed to practice medicine in all its branches. Failure of an individual to submit to a mental or physical examination, when directed, shall result in an automatic suspension without hearing.

A person holding a license under this Act

applied for a license under this Act, who, because of a

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physical or mental illness or disability, including, but not limited to, deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety, may be required by the Department to submit to care, counseling, or treatment by physicians approved or designated by the Department as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice. Submission to care, counseling, or treatment as required by the Department shall not be considered discipline of a license. If the licensee refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, the Department may file a complaint to revoke, suspend, or otherwise discipline the license of the individual. The Secretary may order the license suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

- 1 An individual licensed under this Act and affected under 2 this Section shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in 3 4 compliance with acceptable and prevailing standards under the 5 provisions of his or her license.
- (Source: P.A. 100-872, eff. 8-14-18.) 6
- 7 (225 ILCS 441/15-10.1 new)
- 8 Sec. 15-10.1. Citations.

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- 9 (a) The Department may adopt rules to permit the issuance of citations to any licensee for failure to comply with the 10 continuing education requirements set forth in this Act or as 11 established by rule. The citation shall be issued to the 12 13 licensee and shall contain the licensee's name, the licensee's 14 address, the licensee's license number, the number of required 15 hours of continuing education that have not been successfully completed by the licensee within the renewal period, and the 16 penalty imposed, which shall not exceed \$2,000. The issuance 17 of a citation shall not excuse the licensee from completing 18 19 all continuing education required for that renewal period.
 - (b) Service of a citation shall be made in person, electronically, or by mail to the licensee at the licensee's address of record or email address of record, and the citation must clearly state that if the cited licensee wishes to dispute the citation, the cited licensee may make a written request, within 30 days after the citation is served, for a

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hearing before the Department. If the cited licensee does not request a hearing within 30 days after the citation is served, then the citation shall become a final, non-disciplinary order, and any fine imposed is due and payable within 60 days after that final order. If the cited licensee requests a hearing within 30 days after the citation is served, the Department shall afford the cited licensee a hearing conducted in the same manner as a hearing provided for in this Act for any violation of this Act and shall determine whether the cited licensee committed the violation as charged and whether the fine as levied is warranted. If the violation is found, any fine shall constitute non-public discipline and be due and payable within 30 days after the order of the Secretary, which shall constitute a final order of the Department. No change in license status may be made by the Department until a final order of the Department has been issued.

- (c) Payment of a fine that has been assessed pursuant to this Section shall not constitute disciplinary action reportable on the Department's website or elsewhere unless a licensee has previously received 2 or more citations and been assessed 2 or more fines.
- (d) Nothing in this Section shall prohibit or limit the 22 23 Department from taking further action pursuant to this Act and rules for additional, repeated, or continuing violations. 24

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1 (Section scheduled to be repealed on January 1, 2022)

Sec. 15-15. Investigation; notice; hearing. The Department may investigate the actions of any applicant or licensee or of any person or persons rendering or offering to render home inspection services or any person holding or claiming to hold a license as a home inspector. The Department shall, before refusing to issue or renew a license or to discipline a licensee pursuant to Section 15-10, at least 30 days prior to the date set for the hearing, (i) notify the accused in writing, of the charges made and the time and place for the hearing on the charges, (ii) direct the licensee or applicant him or her to file a written answer with the Department under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file an answer will result in a default judgment being entered against the applicant or licensee. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties of their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, the his or her license, may, in the discretion of the Department, be revoked, suspended, placed on probationary status, or the Department may take whatever disciplinary actions considered proper, including limiting the scope, nature, or extent of the

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person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under the Act. The notice may be served by personal delivery, by mail, or, at the discretion of the Department, by electronic means to the address of record or email address of record specified by the accused as last updated with the Department. The written notice may be served by personal delivery or by certified mail to the accused's address of record.

A copy of the hearing officer's report or any Order of Default, along with a copy of the original complaint giving rise to the action, shall be served upon the applicant, licensee, or unlicensed person by the Department to the applicant, licensee, or unlicensed individual in the manner provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with the recommendations of the hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, then the 20-day period during which a motion may be filed shall commence upon the delivery of the transcript to the applicant

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1 or licensee.
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- 2 (Source: P.A. 97-226, eff. 7-28-11.)
- 3 (225 ILCS 441/15-20)
- 4 (Section scheduled to be repealed on January 1, 2022)
- 5 Sec. 15-20. Administrative Review Law; certification fees;
- 6 Illinois Administrative Procedure Act.
- 7 (a) All final administrative decisions of the Department
- 8 under this Act are subject to judicial review pursuant to the
- 9 provisions of the Administrative Review Law and the rules
- 10 adopted pursuant thereto. The term "administrative decision"
- 11 has the meaning ascribed to it in Section 3-101 of the
- 12 Administrative Review Law.
- 13 (b) The Department shall not be required to certify any
- 14 record to the court or file any answer in court or otherwise
- appear in any court in a judicial review proceeding, unless
- 16 and until the Department has received from the plaintiff
- 17 payment of the costs of furnishing and certifying the record,
- which costs shall be determined by the Department. Exhibits
- 19 shall be certified without cost. Failure on the part of the
- 20 plaintiff to file a receipt in court is grounds for dismissal
- 21 of the action.
- 22 (c) The Illinois Administrative Procedure Act is hereby
- 23 expressly adopted and incorporated herein. In the event of a
- 24 conflict between this Act and the Illinois Administrative
- 25 Procedure Act, this Act shall control.

- 1 (d) Proceedings for judicial review shall be commenced in
- the circuit court of the county in which the party applying for 2
- 3 review resides, but if the party is not a resident of Illinois,
- 4 the venue shall be in Sangamon County or Cook County.
- 5 (Source: P.A. 97-226, eff. 7-28-11.)
- 6 (225 ILCS 441/15-36 new)
- 7 Sec. 15-36. No private right of action. Except as
- 8 otherwise expressly provided for in this Act, nothing in this
- 9 Act shall be construed to grant to any person a private right
- 10 of action to enforce the provisions of this Act or the rules
- 11 adopted under this Act.
- 12 (225 ILCS 441/15-55)
- 13 (Section scheduled to be repealed on January 1, 2022)
- 14 Sec. 15-55. Returned checks and dishonored credit card
- <u>charges</u>; penalty fee; <u>revocation</u> termination. A person who (1) 15
- delivers a check or other payment to the Department that is 16
- 17 returned to the Department unpaid by the financial institution
- 18 upon which it was drawn shall pay to the Department; or (2)
- 19 presents a credit or debit card for payment that is invalid or
- 20 expired or against which charges by the Department are
- declined or dishonored, in addition to the amount already 21
- 22 owed, a penalty fee of \$50. The Department shall notify the
- 23 person, by certified mail return receipt requested, that the
- 24 his or her check or payment was returned or that the credit

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card charge was dishonored and that the person shall pay to the Department by certified check or money order the amount of the returned check plus a \$50 penalty fee within 30 calendar days after the date of the notification. If, after the expiration of 30 calendar days of the notification, the person has failed to remit the necessary funds and penalty, the Department shall automatically revoke terminate the license or deny the application without hearing. If the returned check or other payment was for issuance of a license under this Act and that person practices as a home inspector, that person may be subject to discipline for unlicensed practice as provided in this Act. If, after revocation termination or denial, the person seeks a license, the applicant or licensee he or she shall petition the Department for restoration or issuance of the license and he or she may be subject to additional discipline or fines. The Secretary may waive the penalties or fines due under this Section in individual cases where the Secretary finds that the penalties or fines would be unreasonable or unnecessarily burdensome.

- 20 (Source: P.A. 97-226, eff. 7-28-11.)
- 21 (225 ILCS 441/15-60)
- 22 (Section scheduled to be repealed on January 1, 2022)
- Sec. 15-60. Violations; injunction; cease and desist
- orders.
- 25 (a) If any person violates a provision of this Act, the

Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney in the county in which the offense occurs, petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person practices as a home inspector or holds oneself himself or herself out as a home inspector without being licensed under the provisions of this Act, then the Secretary, any licensed home inspector, any interested party, or any person injured thereby may petition for relief as provided in subsection (a) of this Section or may apply to the circuit court of the county in which the violation or some part thereof occurred, or in which the person complained of resides or has a his or her principal place of business or resides, to prevent the violation. The court has jurisdiction to enforce obedience by injunction or by other process restricting the person complained of from further violation and may enjoin enjoining upon the person him or her obedience.

- 1 (c) Whoever knowingly practices or offers to practice home 2 inspection in this State without a license for that purpose 3 shall be guilty of a Class A misdemeanor for the first offense 4 and shall be guilty of a Class 4 felony for the second and any 5 subsequent offense.
- (d) Whenever, in the opinion of the Department, a person 6 violates any provision of this Act, the Department may issue a 7 8 rule to show cause why an order to cease and desist should not 9 be entered against that person. The rule shall clearly set 10 forth the grounds relied upon by the Department and shall 11 provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to 12 13 answer to the satisfaction of the Department shall cause an order to cease and desist to be issued. 14
- 15 (Source: P.A. 97-226, eff. 7-28-11.)
- 16 (225 ILCS 441/20-5)
- 17 (Section scheduled to be repealed on January 1, 2022)
- 18 Sec. 20-5. Education provider.
- 19 (a) Only education providers licensed by the Department
 20 may provide the pre-license and continuing education courses
 21 required for licensure under this Act.
- 22 (b) A person or entity seeking to be licensed as an 23 education provider under this Act shall provide satisfactory 24 evidence of the following:
- 25 (1) a sound financial base for establishing,

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- 1 promoting, and delivering the necessary courses;
- (2) a sufficient number of qualified instructors; 2
- 3 adequate support personnel to assist with administrative matters and technical assistance; 4
 - (4) a written policy dealing with procedures for management of grievances and fee refunds;
 - (5)gualified school administrator, responsible for the administration of the school, courses, and the actions of the instructors; and
 - (6) any other requirements provided by rule.
 - (c) All applicants for an education provider's license shall make initial application to the Department in a manner prescribed on forms provided by the Department and pay the appropriate fee as provided by rule. In addition to any other information required to be contained in the application as prescribed by rule, every application for an original or renewed license shall include the applicant's tax identification number. The term, expiration date, and renewal of an education provider's license shall be established by rule.
 - (d) An education provider shall provide each successful course participant with a certificate of completion signed by the school administrator. The format and content of the certificate shall be specified by rule.
- 25 All education providers shall provide to the Department a monthly roster of all successful course 26

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1 participants as provided by rule.
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- 2 (Source: P.A. 97-226, eff. 7-28-11.)
- 3 (225 ILCS 441/25-15)
- 4 (Section scheduled to be repealed on January 1, 2022)
- 5 Sec. 25-15. Liaison; duties. The Secretary shall appoint
- 6 an employee of the Department to:
- 7 (1) (blank);
- 8 (2) be the direct liaison between the Department, peer
- 9 review advisors, the profession, home inspectors, and
- 10 related industry organizations and associations; and
- 11 (3) prepare and circulate to licensees such
- 12 educational and informational material as the Department
- deems necessary for providing guidance or assistance to
- 14 licensees.
- 15 (Source: P.A. 97-226, eff. 7-28-11.)
- 16 (225 ILCS 441/25-27)
- 17 (Section scheduled to be repealed on January 1, 2022)
- 18 Sec. 25-27. Subpoenas; depositions; oaths.
- 19 (a) The Department may subpoena and bring before it any
- 20 person to take oral or written testimony or compel the
- 21 production of any books, papers, records, or any other
- documents the Secretary or the Secretary's his or her designee
- 23 deems relevant or material to any investigation or hearing
- 24 conducted by the Department with the same fees and in the same

- 1 manner as prescribed in civil cases in the courts of this
- 2 State.
- 3 (b) Any circuit court, upon the application of the
- 4 licensee or the Department, may order the attendance and
- 5 testimony of witnesses and the production of relevant
- 6 documents, files, records, books, and papers in connection
- 7 with any hearing or investigation. The circuit court may
- 8 compel obedience to its order by proceedings for contempt.
- 9 (c) The Secretary, the hearing officer, any member of the
- 10 Board, or a certified shorthand court reporter may administer
- oaths at any hearing the Department conducts. Notwithstanding
- 12 any other statute or Department rule to the contrary, all
- 13 requests for testimony, production of documents, or records
- shall be in accordance with this Act.
- 15 (Source: P.A. 97-226, eff. 7-28-11.)
- 16 (225 ILCS 441/25-17 rep.)
- 17 Section 15. The Home Inspector License Act is amended by
- 18 repealing Section 25-17.
- 19 Section 99. Effective date. This Act takes effect January
- 20 1, 2022, except that this Section and Section 5 take effect
- 21 upon becoming law.".